

APPEAL NO. 020782
FILED MAY 15, 2002

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). A contested case hearing was held on March 12, 2002. With respect to the issues before him, the hearing officer determined that the appellant (claimant) did not sustain a compensable injury on _____, and that he did not have disability. The claimant appeals those determinations on sufficiency grounds. In its response, the respondent (carrier) urges affirmance.

DECISION

Affirmed.

The claimant had the burden to prove that he was injured in the course and scope of his employment. The 1989 Act makes the hearing officer the sole judge of the weight and credibility to be given to the evidence. Section 410.165(a). As the trier of fact, the hearing officer resolves conflicts and inconsistencies in the evidence and decides what facts the evidence has established. Texas Workers' Compensation Commission Appeal No. 950084, decided February 28, 1995. The finder of fact may believe that the claimant has an injury, but disbelieve the claimant's testimony that the injury occurred at work as claimed. Johnson v. Employers Reinsurance Corp., 351 S.W.2d 936 (Tex. Civ. App.-Texarkana 1961, no writ). A fact finder is not bound by evidence from a doctor where the credibility of that evidence is manifestly dependent upon the credibility of the information imparted to the doctor by the claimant. Rowland v. Standard Fire Ins. Co., 489 S.W.2d 151 (Tex. Civ. App.-Houston [14th Dist.] 1972, writ ref'd n.r.e.). The Appeals Panel will not disturb the challenged factual findings unless they are so against the great weight and preponderance of the evidence as to be clearly wrong or manifestly unjust, and we do not so find in this case. Cain v. Bain, 709 S.W.2d 175, 176 (Tex. 1986); In re King's Estate, 150 Tex. 662, 244 S.W.2d 660 (1951).

Given our affirmance of the hearing officer's determination that the claimant did not sustain a compensable injury, we likewise affirm the determination that he did not have disability. By definition, the existence of a compensable injury is a prerequisite to a finding of disability. Section 401.011(16).

Finally, we briefly address the claimant's assertion that the hearing officer was "prejudiced" against him based upon a prior working relationship the hearing officer had with the claimant's treating doctor. After carefully reviewing the record, we cannot agree that the hearing officer's decision in this instance was the product of bias or prejudice. Rather, we believe that his determinations were the result of his resolving the conflicts and inconsistencies in the evidence and assessing credibility. We perceive no error.

The hearing officer's decision and order are affirmed.

The true corporate name of the insurance carrier is **CASUALTY RECIPROCAL EXCHANGE** and the name and address of its registered agent for service of process is

**FRED S. STRADLEY
9330 LBJ FREEWAY, SUITE 1400
ABRAMS CENTER
DALLAS, TEXAS 75242.**

Elaine M. Chaney
Appeals Judge

CONCUR:

Gary L. Kilgore
Appeals Judge

Robert W. Potts
Appeals Judge